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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,938	08/04/2003	Kevin A. Kelly	D24-1d	5790
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			<div>EXAMINER NGUYEN, TAM M</div>	
			<div>ART UNIT 3764</div>	<div>PAPER NUMBER</div>
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/633,938

Applicant(s)

KELLY ET AL.

Examiner

Tam Nguyen

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 128-134, 145-156, 171-182, 198-209, 212 and 228-239 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23, 128-134, 145-156, 171-182, 198-209, 212 and 228 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 128 and 129 are rejected under 35 U.S.C. 102(a) as being anticipated by Szpur (Figure 10 dated January 7, 2004).

1. As to claims 128 and 129, Szpur discloses a method of performing cardiopulmonary resuscitation ("CPR") on a patient comprising wrapping a belt (282) with first and second opposite extremities around a patient's torso as claimed, fastening the belt to a power unit (280) and placing an actuator, having a first and second state, into a first state wherein power is provided to the actuator to tighten the belt around the patient's torso and repeating periodically the first state and the second state (see Fig. 10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 130-134 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szpur view of Barkalow et al. (4,273,114).

2. As to claims 130-134, Szpur discloses a method of performing CPR as described above (see discussion of claim 129). Szpur does not disclose that the method further includes defibrillating the chest of the patient undergoing resuscitation, detecting when the belt has placed the patient's chest under maximal compression and inducing a defibrillating electric current at that time wherein two spaced outer chest surfaces are contacted with first and second electrodes. Barkalow discloses an apparatus and inherently a method of performing CPR that includes defibrillating the chest of a patient undergoing resuscitation, detecting when the patient's chest is under maximal compression and inducing a defibrillating electric current at that time wherein two spaced outer chest surfaces are contacted with first and second electrodes (48,75) (see Fig. 6, ABSTRACT & Col. 8, lines 13-45). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Barkalow's step of simultaneous compression and defibrillation to Szpur's CPR method since the compression would shorten the electrical path to the heart thereby reducing the power required to defibrillate the patient's heart.

Claims 145, 146, 152 and 153 rejected under 35 U.S.C. 102(b) as being unpatentable over Szpur in view of Szpur (5,407,418).

3. As to claims 145, 146, 152 and 153, Szpur disclose a method of performing CPR on a patient comprising wrapping a belt (282) with first and second opposite extremities around a patient's torso as substantially claimed, fastening the belt to an apparatus and moving the belt extremities, with a powered belt tightener (286), in directions to tighten the belt around the patient's chest and periodically tightening the belt wherein the belt is

tightened substantially equally around the patient's left and right sides and the belt tightener includes an electric motor (280) (see Fig. 10). Szpur does not disclose that the belt tightener receives a signal to move the belt extremities. Szpur '418 discloses a similar apparatus and thus method wherein a signal is provided to a belt tightener to move belt extremities to tighten a belt around a user (see Col. 4, lines 18-47). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Szpur's '418 signaling means, which includes a timer module, to Szpur's method such that the timing for the tightening and loosening of the belt around a patient can be automated to simplify the CPR process.

Claims 147-151 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szpur in view Szpur '418 and Barkalow et al. (4,273,114).

4. As to claims 147-151, Szpur and Szpur '418 disclose a modified method of performing CPR as described above (see discussion of claims 145 and 146). Szpur does not disclose that the method further includes defibrillating the chest of the patient undergoing resuscitation, detecting when the belt has placed the patient's chest under maximal compression and inducing a defibrillating electric current at that time wherein two spaced outer chest surfaces are contacted with first and second electrodes.

Barkalow discloses an apparatus and inherently a method of performing CPR that includes defibrillating the chest of a patient undergoing resuscitation, detecting when the patient's chest is under maximal compression and inducing a defibrillating electric current at that time wherein two spaced outer chest surfaces are contacted with first and second electrodes (48,75) (see Fig. 6, ABSTRACT & Col. 8, lines 13-45). At the time of

the invention, it would have been obvious to a person of ordinary skill in the art to combine Barkalow's step of simultaneous compression and defibrillation to Szpur's CPR method since the compression would shorten the electrical path to the heart thereby reducing the power required to defibrillate the patient's heart.

Claims 171, 172, 178, 179, 198, 199, 205, 206 and 212 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szpur in view of Szpur '418.

5. As to claims 171, 172, 178, 179, 198, 199, 205, 206 and 212, Szpur discloses a method of performing CPR on a patient comprising wrapping a belt (282) with first and second opposite extremities around a patient's torso as substantially claimed and fastening the belt to an electric motor power unit (280) wherein power is supplied in regular periodic intervals to the power unit to repeatedly tighten the belt around the patient's torso equally around the patient's left and right sides (see Fig. 10). Szpur does not disclose that the apparatus/power unit is adapted to receive power from an electrical source via a cable/line. Szpur '418 discloses a similar apparatus and thus method wherein the apparatus is adapted to receive power via a cable/line (128) (see Fig. 3). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Szpur's '418 cable with Szpur's apparatus so that power can be transferred to the power unit such that the apparatus can be readily usable anywhere there is a power socket.

Claims 173-177 and 200-204 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szpur in view of Szpur '418 and Barkalow et al. (4,273,114).

6. As to claims 173-177 and 200-204, Szpur and Szpur '418 disclose a modified method of performing CPR as described above (see discussion of claims 171 and 172, and 198 and 199 respectively). Szpur does not disclose that the method further includes defibrillating the chest of the patient undergoing resuscitation, detecting when the belt has placed the patient's chest under maximal compression and inducing a defibrillating electric current at that time wherein two spaced outer chest surfaces are contacted with first and second electrodes. Barkalow discloses an apparatus and inherently a method of performing CPR that includes defibrillating the chest of a patient undergoing resuscitation, detecting when the patient's chest is under maximal compression and inducing a defibrillating electric current at that time wherein two spaced outer chest surfaces are contacted with first and second electrodes (48,75) (see Fig. 6, ABSTRACT & Col. 8, lines 13-45). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Barkalow's step of simultaneous compression and defibrillation to Szpur's CPR method since the compression would shorten the electrical path to the heart thereby reducing the power required to defibrillate the patient's heart.

Claims 228-235 and 239 are rejected under 35 U.S.C. 103(a) as being unpatentable Szpur in view of Barkalow et al. (4,273,114).

7. As to claim 228-235 and 239, Szpur discloses a method of performing CPR on a patient comprising wrapping a belt (282) around a patient's chest and periodically moving the belt in a direction to tighten the belt around the patient's chest to place the chest under compression by an electric motor (280) wherein the belt is tightened

substantially equally around the patient's left and right sides (see Fig. 10). Szpur does not disclose that the method further includes periodically defibrillating the chest of the patient undergoing resuscitation, detecting when the belt has placed the patient's chest under maximal compression and inducing a defibrillating electric current at that time wherein two spaced outer chest surfaces are contacted with first and second electrodes. Barkalow discloses an apparatus and inherently a method of performing CPR that includes defibrillating the chest of a patient undergoing resuscitation, detecting when the patient's chest is under maximal compression and inducing a defibrillating electric current at that time wherein two spaced outer chest surfaces are contacted with first and second electrodes (48,75) (see Fig. 6, ABSTRACT & Col. 8, lines 13-45). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Barkalow's step of simultaneous compression and defibrillation to Szpur's CPR method since the compression would shorten the electrical path to the heart thereby reducing the power required to defibrillate the patient's heart.

Claims 154-156, 180-182 and 207-209 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szpur in view of Szpur '418.

8. As to claims 154-156, 180-182, and 207-209, Szpur and Szpur '418 disclose a modified method of performing CPR as described above (see discussion of claims 152, 178, 205 and 234 respectively). Szpur does not disclose that the belt tightener includes a fluid-pressure motor, a hydraulic motor or a pneumatic motor. The examiner takes Official Notice that the prior art includes medical devices that used a variety of motors for actuation of various components. At the time of the invention, it would have been

obvious to a person of ordinary skill in the art to use any of an array of motors including those disclosed by the instant invention since they all provide a readily useable and portable actuation force.

Claims 236-238 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szpur in view of Barkalow et al. (4,273,114).

9. As to claims 236-238, Szpur and Barkalow disclose a modified method of performing CPR as described above (see discussion of claim 234 respectively). Szpur does not disclose that the belt tightener includes a fluid-pressure motor, a hydraulic motor or a pneumatic motor. The examiner takes Official Notice that the prior art includes medical devices that use a variety of motors for actuation of various components. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use any of an array of motors including those disclosed by the instant invention since they all provide a readily useable and portable actuation force.

Response to Arguments

10. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments regarding the finality of the April 11, 2007 Office Action is persuasive; thus the finality of that action is removed and the amendments received July 11, 2007 have been entered.

Claim 239 was rejected but the Examiner inadvertently failed to reference the claim number in the rejection in Paragraph 10 of the April 11, 2007 Office Action; however, the limitations of claim 239 are clearly discussed and rejected in the

paragraph 10 of that action. It is noted that claim 239 is discussed in paragraph 7 of the instant Office Action.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen whose telephone number is 571-272-4979. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cary O'Connor can be reached on 571-272-4715. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

July 31, 2007


Tam M. Nguyen
Art Unit 3764


LORI AMERSON
PRIMARY EXAMINER